

Minnesota Board of Pharmacy

SEVEN HUNDRED AND SEVENTY-FIRST MEETING

At approximately 8:30 a.m., November 16, 2005, the Minnesota Board of Pharmacy met in Conference Room A, at the University Park Plaza Building, 2829 University Avenue Southeast, Minneapolis, Minnesota, for the purpose of conducting a general business meeting. All members of the Board were in attendance. Also in attendance were the Board's Executive Director, Dr. Cody Wiberg, the Board's Legal Counsel, Ms. Tiernee Murphy, and Board of Pharmacy staff, Stuart Vandenberg, Les Kotek, and Patricia Eggers. Board President Gary Schneider called the meeting to order.

The Board first reviewed and approved the agenda for this meeting. Mr. Tom Dickson moved and Ms. Betty Johnson seconded that the revised agenda be approved. The motion passed.

The Board next discussed the minutes of the meeting of September 14, 2005. Ms. Betty Johnson moved and Ms. Kay Dvorak seconded that the minutes of the meeting of September 14, 2005, be approved as written. The motion passed.

The first item of a quasi-judicial nature, to come before the Board, was a petition from Ms. Deborah Frazey requesting that her license be reinstated unconditionally. Ms. Murphy presented the Board with background information on Ms. Frazey and with a proposed Order for an Unconditional License. After discussing the proposed Order for an Unconditional License, Mr. Vern Kassekert moved and Ms. Kay Dvorak seconded that the Board accept the proposed Order for an Unconditional License and that Dr. Cody Wiberg sign the order on the Board's behalf. The motion passed.

The second item of a quasi-judicial nature, to come before the Board, was a petition from Mr. Daniel Jonas requesting that his suspension be lifted to allow him to return to work with certain restrictions. Ms. Murphy presented the Board with background information on Mr. Jonas, and a proposed Order for Restricted Reinstatement. After discussing the proposed Order for Restricted Reinstatement, Mr. Tom Dickson moved and Ms. Kay Dvorak seconded that the Board approve the proposed Order for Restricted Reinstatement, and allow Mr. Dan Jonas to return to practice with certain restrictions and that Dr. Cody Wiberg sign the order on the Board's behalf. The motion passed.

The Board next returned to its open session.

The Board next turned its attention to applications to conduct new pharmacies, which it has received since its last meeting. The first application to conduct a new pharmacy, to be reviewed by the Board, was submitted on behalf of CVS Pharmacy #7117, in Minneapolis, Minnesota, by Mr. Michael Mielniczyk, Pharmacist-in-charge. After carefully reviewing this application, and a diagram of the proposed pharmacy, and noting that the pharmacy has already been inspected by Pharmacy Board Surveyor Candice Fleming, Mr. Vern Kassekert moved and Ms. Betty Johnson seconded that the application be approved and a license issued. The motion passed.

The second application to conduct a new pharmacy, to be reviewed by the Board, was submitted on behalf of CVS Pharmacy #5998, in St. Paul, Minnesota, by Mr. Jack Berttula, Pharmacist-in-charge. After carefully reviewing this application, and a diagram of the proposed pharmacy, and noting that the pharmacy has already been inspected by Pharmacy Board Surveyor Candice Fleming, Ms. Betty Johnson moved and Mr. Vern Kassekert seconded that the application be approved and a license issued. The motion passed.

The third application to conduct a new pharmacy, to be reviewed by the Board, was submitted on behalf of Duluth Clinic 1st Street Pharmacy, in Duluth, Minnesota, by Ms. Dianne Witten, Temporary Pharmacist-in-charge. After carefully reviewing this application, and a diagram of the proposed pharmacy, Ms. Kay Dvorak moved and Mr. Vern Kassekert seconded that the application be approved and a license issued subject to the naming of a permanent pharmacist-in-charge for the pharmacy, and subject also to the successful completion of an on-site inspection by a member of the Board's staff to assure compliance with pharmacy Board rules dealing with licensure, with special attention being paid to the adequacy of the patient-counseling area. The motion passed.

The fourth application to conduct a new pharmacy, to be reviewed by the Board, was submitted on behalf of First Choice Pharmacy of Henderson, in Henderson, Minnesota, by Ms. Jill Reinhardt, Pharmacist-in-charge. After carefully reviewing this application, a diagram of the proposed pharmacy, and being advised by Pharmacy Board Surveyor Les Kotek that the facility would operate as a telepharmacy, Mr. Tom Dickson moved and Mr. Vern Kassekert seconded that the application be approved and a license issued pending the receipt of floor plans, and subject also to the successful completion of an on-site inspection by a member of the Board's staff to assure compliance with pharmacy Board rules dealing with licensure, with special attention being paid to the adequacy of the patient-counseling area. The motion passed.

The fifth application to conduct a new pharmacy, to be reviewed by the Board, was submitted on behalf of Hermann Thrifty White Pharmacy, in Lonsdale, Minnesota, by Mr. Jerome Hermann, Pharmacist-in-charge. After carefully reviewing this application, and a diagram of the proposed pharmacy, Mr. Gary Schneider moved and Ms. Betty Johnson seconded that the application be approved and a license issued subject to the successful completion of an on-site inspection by a member of the Board's staff to assure compliance with pharmacy Board rules dealing with licensure, with special attention being paid to the adequacy of the patient-counseling area. The motion passed.

The sixth application to conduct a new pharmacy, to be reviewed by the Board, was submitted on behalf of Rochester Metro Treatment, in Rochester, Minnesota, by Mr. T. Mark Gallagher. After carefully reviewing this application, and a diagram of the proposed pharmacy, and noting that the pharmacy has already been inspected by Pharmacy Board Surveyor Byron Opstad and not approved, Mr. Vern Kassekert moved and Ms. Betty Johnson seconded that the application be approved and a license issued pending installation of floor to ceiling walls in the pharmacy, subject to the naming of a permanent pharmacist-in-charge for the pharmacy, and subject also to the successful completion of an on-site inspection by a member of the Board's

staff to assure compliance with pharmacy Board rules dealing with licensure, with special attention being paid to the adequacy of the patient-counseling area. The motion passed.

The seventh application to conduct a new pharmacy, to be reviewed by the Board, was submitted on behalf of St. Cloud Metro Treatment, in St. Cloud, Minnesota, by Mr. T. Mark Gallagher. After carefully reviewing this application, and a diagram of the proposed pharmacy, Mr. Tom Dickson moved and Ms. Betty Johnson seconded that the application be approved and a license issued subject to the naming of a permanent pharmacist-in-charge for the pharmacy, and subject also to the successful completion of an on-site inspection by a member of the Board's staff to assure compliance with pharmacy Board rules dealing with licensure, with special attention being paid to the adequacy of the patient-counseling area. The motion passed.

The Board next turned its attention to reports from its standing committees.

The Board first addressed the report from the Continuing Education Advisory Task Force. Dr. Wiberg presented the Board with a list of continuing education programs submitted to and reviewed by the Continuing Education Advisory Task Force between the dates of August 9, 2005 and October 11, 2005. Mr. Tom Dickson moved and Ms. Betty Johnson seconded that those programs recommended for approval by the Continuing Education Advisory Task Force be so approved and that those programs for which the Continuing Education Advisory Task Force recommended denial of approval be denied. The motion passed.

After consideration of the Continuing Education Advisory Task Force's recommendation for changes in policies, Mr. Vern Kassekert moved that the new policies be adopted, Ms. Kay Dvorak seconded. The motion passed.

Dr. Wiberg next presented the Board with a letter from Mr. Thomas Yentsch informing the Board that he is being called to active duty and is requesting guidance on how to handle his Continuing Education. After discussion on the issue, Mr. Vern Kassekert moved and Ms. Betty Johnson seconded that the Continuing Education due September 30, 2006 be waived and that he will need to complete 7.5 hours of CE for the period ending September 30, 2008, in conformity with Statute 326.56, subd. 2, and that this policy be used for all subsequent pharmacists called to active duty. The motion passed.

At this time the Board agreed to waive the order of the agenda in order to view a presentation by SuperValu. The presentation was made by Bob Hansen, a representative from Asteres, and Denise Frank Peterson, District Manager for SuperValu. SuperValu is considering using the ScriptCenter Automated Dispensing System, which is manufactured by Asteres, and requested that the Board consider developing guidelines as to what would be needed in order for a pharmacy to be granted a variance to use the system. After much discussion, the Board determined that staff should review the ScriptCenter System, that Betty Johnson and Candice Fleming should attend a demonstration of the system when they are in Del Mar, CA for the MPJE review meeting, and that guidelines should be presented to the Board at its meeting of February 22, 2006.

At this time the Board heard a presentation made by David Busch and Jeffrey Scott of HealthPartners. They are requesting Board input concerning a proposed employer based prescription refill pickup service. After much discussion, the Board determined that this concept should be reviewed by staff and that guidelines should be developed for use by HealthPartners and other interested parties. The guidelines should be presented to the Board for approval at the Board's January 11, 2006, meeting.

The Board now returned to the regular order of the agenda.

Dr. Wiberg next presented the report of the Examination Committee. The first item was a presentation of the scores of candidates for licensure by examination and for licensure by reciprocity. After a review of the performance of the candidates for licensure by reciprocity, Ms. Betty Johnson moved and Mr. Tom Dickson seconded that, having passed the Multistate Pharmacy Jurisprudence Examination required of candidates for licensure by reciprocity, the following candidates be granted such licensure based on their current license to practice in the state listed with their name:

<u>CERTIFICATE #</u>	<u>NAME</u>	<u>STATE OF ORIGINAL LICENSURE</u>
9046	Amy Elizabeth Jones	NY
9047	Lawrence James Sajdak	IL
9051	Ahmedfowz Mohamed Osman	MI
9054	Nicole Rochelle Holmes	IA
9055	Phillip Dennis Hayes	KS
9060	Yuen Sim Lai	DC
9061	Michael A. Mone'	TX
9063	Courtney Caroline Seegmiller	MI
9066	Theresa A. Giordano	NJ
9067	Amanda Jean Weber	IA
9069	Barry W. Snyder	IA
9071	Rachel Marie Chambers	MI
9073	Janice Lynn Carswell	TX

The Board next turned its attention to the performance of candidates for licensure by examination who have now completed all parts of the Board Examination. For Full Board Examination candidates, the Board determined that a minimum passing score on both the NAPLEX portion of the examination and on the Multistate Pharmacy Jurisprudence portion of the examination be 75. With the passing level thus established, it was moved by Mr. Tom Dickson, seconded by Mr. Vern Kassekert, that the following candidates be granted licensure as pharmacists:

<u>NAME</u>	<u>CERTIFICATE #</u>	<u>REGISTRATION #</u>
Michelle Lauck	9042	118402-2
Casey Gallimore	9043	118403-5
Andrea L. Kjos	9045	118405-1

<u>NAME</u>	<u>CERTIFICATE #</u>	<u>REGISTRATION #</u>
Kyle T. Baron	9048	118408-0
Gregory Glinski	9049	118409-3
Kofi Onumah	9050	118410-3
Fidelis O. Ojevwe	9052	118412-9
Ubah I. Abdi	9053	118413-2
Tammy L. Burns	9056	118416-1
Aaron B. Jennissen	9057	118417-4
Betsy Lynn Huck	9058	118418-7
Beth Reisner	9059	118419-0
Annette E. Nganje	9062	118422-6
Tak S. Sum	9064	118424-2
Aaron Lee Theis	9065	118425-5
Alysia Jane Iverson	9068	118428-4

The motions passed.

Dr. Wiberg next presented a problem that arose on the reinstatement of pharmacist licensure. Mr. Vern Kassekert moved to accept the staff recommendation that the following provision be added to the reinstatement standards that were previously approved April 8, 2005, meeting:

“Provision of information concerning controlled substance abuse or habitual indulgence of intoxicating liquor, felony convictions or convictions involving moral turpitude, or unprofessional conduct; or a statement that the applicant has had no such problems.”

Mr. Tom Dickson seconded the motion. The motion passed.

Dr. Wiberg next presented the Board with a letter from Dr. Caly Chien, who is requesting the Board to accept her work as a registered pharmacist in British Columbia to be counted toward the Board’s internship requirement; thus allowing Dr. Chien to obtain a pharmacist license by examination. Mr. Vern Kassekert moved and Ms. Kay Dvorak seconded the motion. The motion passed.

Dr. Wiberg advised the Board that Candice Fleming and Betty Johnson will be attending the MPJE Review session and that NABP will pay the expenses incurred by the attendees.

Dr. Wiberg indicated there was nothing to report from the Internship Committee.

The Board reviewed a rules package, developed by board staff in consultation with two committees composed of interested parties, regarding definitions, license categories, pharmacy satellites, patient access to pharmacists, closing a pharmacy, required reference books and equipment, applications for licensure, reciprocal licensure, drug manufacturer or wholesaler licensure, pharmaceutical waste, vending machines, return of drugs and devices, prescription numbers, electronic prescriptions, compounding and dispensing, transfer of prescriptions

between pharmacies, prepackaging and labeling, pharmacy compounding practices, beyond-use dates, prescription labeling, labeling of out-patient intravenous admixture drugs, electronic data processing, Schedule III and V controlled substances, registration of controlled substance researchers, controlled substance samples, prescription order communication, hospital pharmacist-in-charge, patient care, pharmaceutical service policies, policy and procedures manuals, physical requirements, service and filing of papers, variances, registration of medical gas retailers, and continuing pharmaceutical education.

Dr. Wiberg explained that Inspector Michele Mattila felt that some of the rules would be controversial. Several members of the public, including Jeff Lindoo, Denise Frank Peterson, and Jill Hutchinson, were present to comment on these and other rules. These rules are:

6800.3200 F – Packaging and Labeling and 6800.3400 – Packaging and Labeling – During discussion, Mr. Kassekert stated that this is an area where the board can directly impact patient safety. Other discussion concerned whether the rule exempted liquids, eye drops, and IV's and whether the Board should pursue a change in statute to eliminate the requirement of putting the manufacturer's name on the label. The Board determined that the rule should be left as written.

6800.2700 F & G – Return of drugs and devices – There was an extended discussion concerning the safety of accepting returned drugs for re-dispensing. Mr. Carleton Crawford moved to delete the wording in F & G and change F to read "The pharmacy ensures that patients, who may receive returned drugs, are notified that the pharmacy accepts and re-dispenses drug returns from approved facilities." Mr. Tom Dickson seconded. The motion passed.

Additional rules that members of the public felt were controversial are as follows:

6800.0100, subpart 3 – Central service pharmacy – Mr. Lindoo voiced concern that central service pharmacies would be the one category of pharmacy licensure that is restricted to being located in the state of Minnesota. After much discussion the Board determined, by unanimous decision, to leave the rule as written.

6800.0910 – Patient Access to Pharmacist – Mr. Lindoo stated that his understanding is that the intent of the rule was to require pharmacist's to counsel all patients on new prescriptions and that a pharmacist designee would be allowed to make the offer to counsel on refills. After much discussion the Board determined, by unanimous decision, to leave the rule as written.

6800.3950 – Electronic Data Processing, Computer usage – Dr. Wiberg suggested a wording change in subp. 4 (a). After much discussion Ms. Kay Dvorak moved that the second sentence be changed to "This process must not occur prior to 2 hours after the prescription has been initially certified, unless it is completed by a second individual pharmacist as soon as possible after the initial certification has occurred." Mr. Tom Dickson seconded the motion. The motion passed.

Members of the public expressed concern that only hospitals would be allowed to develop alternative plans. After much discussion the Board determined, by unanimous decision, to leave the rule as written.

6800.6200 – Prescription Order Communication. – Mr. Lindoo addressed the fact that this language allows a RN or LPN in a nursing home to take a verbal order, reduce it to writing, sign it, and transmit it to the pharmacy, but does not allow this process in any other long term care facility. Mr. Lindoo proposed to strike the wording “licensed nursing home” and change it to “a licensed facility” or other language to broaden the scope. Ms. Betty Johnson moved that the wording should be changed to “a licensed pharmacist, registered nurse, or licensed practical nurse who is employed by a licensed facility, and who is authorized by the facility’s administrator and is acting on the behalf of the prescriber.” Mr. Tom Dickson seconded the motion. The motion passed.

On the overall rule package Mr. Tom Dickson moved to approve the package as amended, Mr. Carleton Crawford seconded the motion. The motion passed.

Mr. Vern Kassekert made a motion that the staff should divide the package into controversial and non-controversial rules and proceed with the formal rule process, Ms. Betty Johnson seconded the motion. The motion passed.

Dr. Wiberg requested guidance from the Board on handling requests for Board opinions on issues that have not been considered by the members. The Board indicated that Dr. Wiberg should either contact the Board President or all board members prior to rendering an opinion on the Board’s behalf.

Dr. Wiberg asked the Board for guidance on the issue of pharmacists refusing to fill prescriptions on the basis of moral objections. The Board reaffirmed its position that this issue needs to be addressed by the legislature. The consensus of the Board was that legislation restricting the ability of a pharmacist to exercise professional judgment would be of concern.

The Board next turned its attention to the report by the Variance Committee.

Mr. Vern Kassekert moved and Mr. Carleton Crawford seconded that the Variance Committee report be approved as presented. The motion passed.

Dr. Wiberg next presented a letter from the National Association of Boards of Pharmacies regarding reciprocity. Mr. Tom Dickson moved to eliminate the requirement that a pharmacist, reciprocating into Minnesota, needs to have an active license in the original state of licensure and that the Board’s reciprocity policies be changed to reflect this, Ms. Kay Dvorak seconded the motion. The motion passed with Mr. Carleton Crawford voting in opposition.

Dr. Wiberg next presented the Board with information he received from HPSP regarding age distribution of participants in the program, that was requested at the previous board meeting.

There being no further business requiring action by the Board, Mr. Vern Kassekert moved to adjourn the meeting at approximately 2:35 p.m., Mr. Tom Dickson seconded the motion. The motion passed.

PRESIDENT

EXECUTIVE DIRECTOR